

Election of the Vice-President

1. The Vice-President is elected by an electoral college consisting of members of both Houses of Parliament, in accordance with the system of proportional representation by means of the single transferable vote and the voting in such election is by secret ballot. The Electoral College to elect a person to the office of the Vice-President consists of all members of both Houses of Parliament*.

2. The Vice-President is not a member of either House of Parliament or of a House of a Legislature of any state. If a member of either House of Parliament or of a House of a Legislature of any state is elected as Vice-President, he is deemed to have vacated his seat in that House on the date he/she enters his office as Vice-President.

3. A person cannot be elected as Vice-President unless he -

a. is a citizen of India;

b. has completed the age of 35 years, and

c. is qualified for election as a member of the Council of States (Rajya Sabha).

i.e. he should be a citizen of India, 30 years of age and an elector of the Parliamentary constituency in a State or Union Territory which he seeks to be elected to represent.

A person is not also eligible if he holds any office of profit under the Government of India or a State Government or any subordinate local authority.

4. An election to fill a vacancy caused by the expiry of the term of office of Vice-President is completed before the expiry of the term. In case a vacancy arises by reasons of death, resignation or removal or otherwise, the election to fill that vacancy is held as soon as possible after the occurrence**. The person so elected is entitled to hold office for a full term of 5 years from the date he enters office.

Superintendence of the Election of the Vice-President:

The Election Commission of India conducts the election to the office of the Vice-President. Important Provisions relating to the Election of the Vice-President:

1. The election of the next Vice-President is to be held within 60 days of the expiry of the term of office of the outgoing Vice-President.

2. The Returning Officer usually appointed to conduct the Vice-Presidential elections is the Secretary-General of either House of the Parliament, by rotation. The Returning Officer issues a public notice of the intended election in a prescribed form, inviting nomination of candidates and specifies the place where the nomination papers are to be delivered. Any person qualified to be elected and intending to stand for election as Vice-President is required to be nominated by at least 20 MPs as proposers and at least 20 MPs as seconders.

Nomination papers are to be presented to the Returning Officer at the place and upto the time and date, specified in the public notice. A maximum of 4 nomination papers by, or on behalf of, any candidate may be presented to, or accepted by, the Returning Officer.

3. A candidate seeking election as Vice-President is required to make a security deposit of Rs.15,000/-. This is the only amount that is required to be deposited by a candidate irrespective of the number of nomination papers filed on his behalf.

4. The nomination papers are scrutinised on the specified date by the Returning Officer in the presence of the candidate and his proposer or seconder and any one other person duly authorised.

5. Any candidate may withdraw his candidature by a notice in writing in a prescribed form delivered to the Returning Officer within the time specified.

6. In the election an elector has as many preferences as there are candidates. In casting his vote, an elector is required to record on his ballot paper the figure 1 at the space opposite the name of the candidate whom he chooses as his first preference and may, in addition, record as many subsequent preferences as he/she wishes by recording on his ballot paper the figures 2,3,4, and so on, in the space opposite the names of other candidates. The votes should be recorded in the international form of Indian numerals or in the Roman form or in the form of any Indian language but should not be indicated in words. Every ballot paper represents one vote at each count. The procedure for counting votes consists of the following steps:

a. The number of first preference votes secured by each candidate is ascertained.

b. The numbers so ascertained are added up - the total is divided by two and one is added to the quotient disregarding any remainder. The resulting number is the quota sufficient for a candidate to secure his return at the election.

c. If at the end of the first or any subsequent count, the total number of votes credited to any candidate is equal to, or greater than the quota, that candidate is declared elected.

d. If at the end of any count, no candidate can be declared elected, then;

(a) the candidate who upto the stage has been credited with the lowest number of votes shall be excluded from the poll, and all his ballot papers will be again scrutinised, one by one, with reference to the second preference marked, if any, on them. These ballot papers will be transferred to the respective remaining (continuing) candidates for whom such second preferences have been marked thereon, and the value of votes of those ballot papers credited to such candidates. These ballot papers shall be transferred to the aforesaid continuing candidate. The ballot papers on which the second preference is not marked shall be treated as exhausted ballot papers and shall not be counted further, even if they contain third or any subsequent preference.

If at the end of this count, some candidate reaches the quota, he shall be declared elected.

(b) If at the end of the second count also, no candidate can be declared elected, the counting will proceed still further by exclusion of the candidate who is now lowest on the poll upto this stage. All his ballot papers, including the ballot papers which he might have received during the second count, will again be scrutinised with reference to the 'next available preference' marked on each of them. If on a ballot paper received by him in the first count, the second preference is marked for any of the continuing candidates, it shall be transferred to that candidate. If on any such ballot paper, the second preference is marked for the candidate who has already been excluded in the second round, such ballot paper shall be transferred with reference to the third preference, if any, for a continuing candidate. Similarly, the ballot papers received by him in the second round by way of transfer will also be scrutinised with reference to the third preference marked on them.

This process of exclusion of candidates lowest on the poll will be repeated till one of the continuing candidates reaches the quota.

7. After the election has been held and the votes have been counted, the Returning Officer declares the result of the election. Thereafter, he reports the result to the Central Government (Ministry of Law & Justice) and the Election Commission of India and the Central Government publishes the name of the person elected as Vice-President, in the Official Gazette.

Disputes regarding Election of the Vice-President:

1. All doubts and disputes arising in connection with the election of the Vice-President are enquired into and decided by the Supreme Court of India whose decision is final.

2. A petition challenging the election of the Vice-President is heard by a five-judge bench of the Supreme Court of India.

3. The petition has necessarily to be accompanied by a security deposit of Rs. 20,000/-.

Text of Oath of Affirmation by the Vice-President:

"I, _____ do swear in the name of God that I will bear true faith and allegiance to solemnly affirm the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

*The electoral college for electing the President of India comprises of only the elected members of Parliament and State Legislative Assemblies.

**The Constitution provides an outer limit of six months (Article 62) for election to the office of the President of India under these circumstances